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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,736	05/26/2000	Christian Buchler	RCA 90.200	1059

7590

04/29/2004

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Patent Operations
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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/579,736

Applicant(s)

BUCHLER ET AL.

Examiner

Aristotelis M Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicants' response of 3/10/04 has been considered with the following results.

Specification

The amendment to title of the invention is descriptive and has been entered.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-10, 13 and 17 are rejected under 35 U.S.C. 102(a) as being anticipated by JP 10-198981.

The JP document is relied upon for the reasons stated in the submitted EP search report. The above noted claims (US) correspond to the claims identified in the EP search report. No further analysis is made, because the claimed subject matter in the US case finds clear support in the above EP claims.

With respect to claim 13, this corresponds to the EP claim 10 in the corresponding EP case. The method limitation is met when the above system operates.

Response to Arguments

6. Applicant's arguments filed 3/10/04 have been fully considered but they are not persuasive. Applicants' attention is drawn to the mat of the above noted document and in particular the operation of figure 1(drawing 1). From the description thereof and in keeping with applicants' comments thereto, all the elements recited are found in the above document. The examiner interprets the operation of element 11 as providing the appropriate ability to element 9 for blocking the output of the phase forming unit.

7. Claims 11 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 10 above, and further in view of Kuribayashi.

The primary references are relied upon for the reasons stated above.

Claims 11 and 12 identify additional impermissible sequences in which the zero crossings cannot/should not occur in order to indicate a failure.

The Kuribayashi document teaches in this environment the ability of using a pattern detection ability in order to appropriately select/pass the phase difference te signal. See the discussion with respect

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to figure 5. The particular pattern is not specified, nevertheless It would have been obvious to modify the base systems of the JP document with the above teaching from Kuribayashi, motivation is to appropriately control the generated te signal and hence improve the te ability.

Response to Arguments

The rejection is maintained. No additional rebuttal is required with respect to the dependent claims.

8. Claims 1-3,6,9,10 and 17 are rejected under 35 U.S.C. 102(e) as being e by anticipated by Kuribayashi.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

The Kuribayashi system discloses in a te environment for optical systems the claimed elements including the ability or appropriately blocking/passing the developed signal in response to detected patterns – see the discussion with respect to figure 5.

Response to Arguments

9. Applicant's arguments filed 3/10/04 have been fully considered but they are not persuasive. The examiner interprets the disabling condition of gate element 31 performed by the determination unit 40 as yielding an appropriate output to the gate to block the output of element 23. The disabling condition meets the claimed phrase "when an impermissible sequence of edges is detected".

10. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 10 as stated in paragraph 12 above, and further in view of JP 10-208262.

With respect to the limitations of claims 11 and 12, although Kuribayashi doesn't specify the particular combinations the JP document discloses various pairings of zero crossings – see the discussion with respect to figure 15 for instance as describing the diagrams found in figures 15 c,d, and f. The examiner interprets the above claimed limitations to be met in the zero crossings discussed thereat.

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It would have been obvious to modify the base system of Kuribayashi with the above teaching from JP 10-208262 motivation is to improve the te signal as a function of properly detected zero crossings.

Response to Arguments

11. Applicant's arguments filed 3/10/04 have been fully considered but they are not persuasive. The dependent claims fall accordingly.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Hard copies of the application files are now separated from this examining corps; hence the examiner can answer no questions that require a review of the file without sufficient lead-time.

Any inquiries concerning missing papers/references, etc. must be directed to Group 2600 Customer Services at (703) 306-0377.

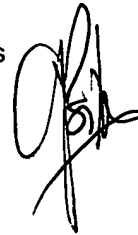
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to-reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos
Primary Examiner
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A handwritten signature in black ink, appearing to be 'A. Psitos', written over a circular stamp that contains the number '51'.

AMP